

**Notice of Allowability**

Application No.

09/936,377

Applicant(s)

DEFRENNE ET AL.

Examiner

PADMA v. BASKAR

Art Unit

1645

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/11/08.
2. ☒ The allowed claim(s) is/are 25, 27, 29, 31, 32, 35, 48, 50, 57, 40, 41, 49, 51, 59-63 and 43 and have been renumbered as 1-19 respectively.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>3/3/08</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                       |
|  | 9. <input type="checkbox"/> Other _____.   |

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### **DETAILED ACTION**

1. The amendment 10/18/07 and the supplemental amendment filed on 3/11/08 are entered.

#### ***Status of Claims***

2. Claims 1-24, 26, 28, 30, 33-34, 36-39, 42, 44-47, 52-56 and 58 are canceled.

New claims 59-63 have been added.

Claims 25, 27, 29, 31, 32, 35, 40, 41, 43 and 48-51, 57 and 59-63 are pending in the application.

3. In view of amendment to the claims and arguments of record, the written description rejection of claims 25, 29, 31, 35, 40, 41, 43, 50, 51, 57 and 59 under 35 U.S.C. 112, first paragraph is withdrawn..

4. In view of amendment to the claims and arguments of record, the scope of enablement rejection of claims 25, 29, 31, 35, 40, 41, 43, 50, 51, 57 and 59 under 35 U.S.C. 112, first paragraph is withdrawn.

5. The instant claims define a novel recombinant polypeptide comprising the 758 amino acid sequence, SEQ.ID.NO: 2 from *Neisseria meningitidis* (meningococcus), a Gram-negative bacterium. The BASB082 gene of *N. meningitidis* strain ATCC 13090 encodes BASB082 polypeptide, SEQ ID NO:2. The instant polypeptide has been shown to bind to sera obtained from patients infected with various clinical isolates of *Neisseria meningitidis* and is useful for diagnostic assays for detecting the infection caused by various clinical strains of *Neisseria meningitidis*.

#### ***Conclusion***

6. Claims 25, 27, 29, 31, 32, 35, 48, 50, 57, 40, 41, 49, 51, 59-63 and 43 are allowed and have been renumbered as 1-19 respectively.

7. Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform to the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Right Fax number is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571) 272-0853. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shanon Foley can be reached on (571) 272-0898.

/Padmavathi v Baskar/

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/Shanon A. Foley/

Supervisory Patent Examiner, Art Unit 1645